# "HELPING TO DIE"

## While There is Life There is Hope.

**"Medicus" Says It is the Duty of a Physician to Prolong Life in All Cases.**

Honolulu, Oct. 16, 1899.

Editor Pacific Commercial Advertiser.—Dear Sir: In your issue of October 12 is an editorial, "Helping to Die." I would like to say a few words on this subject. Although I happen to be one of the younger physicians, and educated in a school noted for the breadth of its education, I cannot say I am free from "the old traditions and prejudices," if such is indicated by a reluctance to taking human life.

There may be cases where sufferers form compacts with their physicians to the effect, that if their disease become unbearable he will "take their life." But what would a compact made with such a one be worth? A physician who makes such a compact has clearly lost all recollection of the oath administered to him before his university granted him his diplomas. If he can be made to break his first compact, I don't see how much reliance can be placed upon his keeping the second. Furthermore, so long as the medical profession is made up of human beings, with all their frailties and liability to err, I would strongly deprecate this new-fangled proposition "that strikes at once against the snags and prejudices of habit."

To say that such a course does so strike, is giving voice to something that has a very fine sound, but it is better to have a habit with snags and prejudices than one that lays its possessor open to the suspicion of criminal actions.

You say: "Who can now define the power which one rightfully has over his own life, to preserve or destroy it, or delegate the power to others to destroy." It seems to me that after reading your editorial one would not feel it would be a difficult task to find one, at least, in our community, and consequently I would ask: Are not the supporters of your argument taking unto themselves the very power they scorn the old-fashioned individuals for possessing?

But whatever may be said from the theoretical point of view, there still remains the practical side, which is naturally by far the more serious one and the question in practice devolves upon the physician to decide. Might I ask what are the exact conditions that would justify a physician in taking life? "When there is no hope," seems to be the apparent answer. But when is that? Any physician knows the truth of the old saying, "While there is life there is hope." Or else are we to take it when the patient is suffering extreme pain and there is apparently no hope of his living? The most common cause of such a condition is undoubtedly cancer, and would a physician be justified in taking life under such circumstances, when a cure for cancer is on the verge of discovery? It is rare that such pain can not be alleviated.

Are we to take it when a person is dying by inches from consumption, when cases are on record of cure resulting from collapse of the lung due to perforation of the pleura?

Are we to take it when a person is crippled for life, because they will be a burden to themselves and others, when it is common enough to find such cripples develop a mental capacity beyond the ordinary?

Should we take the life of imbeciles or idiots, when craniectomy has recently made many of them rational beings?

When are we to take it? Not until mortal man acquires the gift of seeing into the future, and he has not yet attained that attribute—at least, I have not heard of it.

The cases that cannot be alleviated by the judicious use of proper remedies are so very few and far between that it is better to let ten such cases bear their burden than to take the life of one who, for all we know, might have recovered.

Then again, are we to do it on our own initiative or if the patient asks us. All medical men have had experiences in which the patient has begged of them "something to end their life," and yet many such have recovered.

No, indeed, Mr. Editor, do not saddle the medical profession with any more care and worry than it bears right now. They are sufficient without this additional burden. The medical fraternity are not at all anxious that the old saying, "licensed to kill," should become fact and not metaphor.

Thanking you for your space, I am,
MEDICUS, JR.

[Note. The question raised by Judge Baldwin regarding the right of the physician to avoid prolonging an existence that carried with it great suffering, is in a large measure academic. It was made prominent by the Judge's eminent position as a jurist. The "right" also to terminate or cause to be terminated one's own life, where there is incurable disease, with great suffering, is also largely academic. As "Medicus Jr." properly says, it is the practical side of the question that has value.

There cannot be any law enacted granting the physician any right whatsoever to terminate the life of a patient. It would be impossible to define by law the limitations upon such a right. Besides the evidence necessary to establish the facts in any case under a legal review of it would be unsatisfactory, and largely within the physician's sole possession. Nor would it be safe to confer such judicial powers on men, who are admitted to the profession of medicine, without due qualifications. No doubt the giving of opiates to those who have incurable disease and suffer extreme pain, tends to suspend the functions and hastens death in many cases, but human reason, in its infirmity, often approves of indirect, while it disapproves of direct methods of reaching an end. You cannot directly steal a person's money, but the law permits you to bargain and trade so that you do get the ignorant person's money, and he gets nothing for it in return.

The law, which is the organized sense of the people, permits a surgeon to operate on a person, even when a majority of physicians would declare that the operation must be fatal. This is getting close to the danger line. And "successful treatment" in surgery has often become a by-word in the medical profession, because it is called "successful treatment" if the patient survives twenty-four hours after the operation.

The practical aspect of the discussion is, that means should be devised to permit only capable and educated men to practice medicine, because they do so often hold the issues of life and death in their hands. One of the most distinguished physicians said that, "If Omniscience came to earth and opened court for the trial of lawyers and doctors, and held them responsible for their blunders, the jails would be full." If there is any truth in this remark, it is not wise to encourage the doctors to pass judgment in the matter of closing out life.

But the intelligent and conscientious physician, taking the largest view of his duty towards his patients, and the relation of his patient to the laws which govern his existence will make each case a rule for itself.

In the coming years, there will be, no doubt, new views taken on this subject, and the physician will be justified in doing that which he now hesitates to do. The Editor.]

# ANNIE T. K. PARKER

## To Engage in the Cattle Business.

**Her Guardian Petitions That She May be Represented ni a Proposed Corporation.**

In the probate division of the Circuit Court yesterday A. W. Carter, recently appointed guardian of the estate of Annie T. K. Parker, filed a petition to Judge Perry in which he sets out that the property interests of his ward are largely in lands and live stock used as a ranching business.

That there is about to be organized a corporation under the laws of the Hawaiian Islands for the purpose of engaging in, carrying on, buying, selling, importing and dealing in all kinds of live stock, the selling of beef, cattle, sheep, hogs and poultry and other live stock, and the selling of carcasses or parts thereof or any products or commodities made therefrom, and the buying and selling of all kinds of food products, said business to be confined to within certain limits in the districts of Hilo and Puna, on the Island of Hawaii.

That the ranch in which the said minor is interested has found a market within such limits and it would be greatly to the advantage of said minor's estate to be able to participate in the said proposed corporation.

That the business about to be carried on by the said proposed corporation is, in fact, of the same nature as the business that has been heretofore carried on by the estate of said minor.

That it is essential for the protection of the ranching business and said minor's interest that she be represented in said corporation and be permitted to participate in the same.

That the capitalization of said corporation is $20,000.

That the capital required for said corporation will probably at no time exceed $10,000.

That the said minor will be entitled to one-fourth of the stock in said corporation and participate in one-fourth of the profits.

In conclusion the guardian prays that he be authorized to subscribe and pay for the stock it is proposed that the minor shall take, etc.

**The Family Friend.**

No remedy has as good a right to that title as Kickapoo Indian Oil. It is good for internal and external use; it is pain's most powerful panacea. No one can say "I won't" have neuralgia, rheumatism, earache or any other acute pain, but everyone who has a bottle of Kickapoo Indian Oil in the house can say with confidence "I won't" have neuralgia or any other pain long. The power of this oil over pain is marvelous. Toothache, earache, headache, neuralgia and rheumatic pains, dysentery, diarrhœa, cholera morbus, colic, cramps, and all acute pain yield instantly to it. You are always proof against pain with a bottle in the house. Hobron Drug Co., agents for Kickapoo Indian Remedies.

Hives are a terrible torment to the little folks, and to some older ones. Doane's Ointment never fails. Instant relief and permanent cure. At any chemist's, 50 cents.

# THE OLAA LEASES

## Important Decision of the Supreme Court.

**Which Will Affect Many Lessees of Crown Lands on the Island of Hawaii.**

Yesterday afternoon the Supreme Court, Judge Perry sitting in place of the Chief Justice, handed down a decision in the case of E. A. Horan against Sanford B. Dole as President, J. A. King as Minister of the Interior and J. F. Brown as agent of Public Lands, of the Republic of Hawaii. In view of the importance of the case and the number of people affected by it, the decision is printed in full.

The syllabus of the decision reads:

Section 76 of the Land Act, 1895, which permits a holder of an Olaa crown land lease covering less than 200 acres to obtain a patent for that and additional land, in all not exceeding 200 acres, upon the improvement o. 30 acres thereof and other conditions,, does not permit one who has obtained a patent for the entire area covered by his lease to obtain a patent for additional land after the termination of his lease and in consequence of improvements made thereon after the termination of his lease and his acquisition of the fee.

The opinion of the court is by Justice Frear, and is as follows:

This is a submission upon an agreed statement of facts under sections 1255-1258 of the Civil Laws.

The material facts agreed upon are these: The plaintiff E. A. Horan, at the date of the enactment of the Land Act, 1895, was the holder of a lease from the Commissioner of Crown Lands of lot 284, containing 47.25 acres, in the Ahupuaa of Olaa, District of Puna, Island of Hawaii; in 1896, under the provisions of Part IX of the Land Act, he applied for the said lot in fee, representing that he had 15 per cent of the lot under cultivation with coffee, fruit, field or garden crops and had improvements of house and extra cultivation thereon of the value of $200 in addition to the said 15 per cent; the Sub-Agent of Public Lands for the district found that there were about ten acres under cultivation and that the house was of the value of $150; the application was accepted and in due time a patent was issued to Horan for the lot; Horan has continued to live on the lot to the present time, and now has the entire area under cultivation and has improvements thereon valued at $2,400 and has expended thereon $9,000; he has now applied for an additional 250 acres, namely, lots 107, 108 and 109, in the new Olaa survey, but his application has been denied by the defendants. He contends that he has a right under said Part IX of the Land Act to purchase these additional lots at their appraised value and asks that the defendants be ordered to issue to him a patent for the same on receipt of the appraised value.

The decision of the case depends upon the construction of section 76 of the said Land Act (Civ. L. Sec. 260) the portion of which material to this case is as follows:

"Section 76. Any person holding land individually or in conjunction with others, situate in the Ahupuaa of Olaa, District of Puna, on the Island of Hawaii, under a lease from the Commissioners of Crown Lands (not reserving rent for the first three or five years of such lease), shall at any time after the first payment of rent, which is hereby reduced for such leases to one dollar per acre annually in the case of all leases reserving a larger amount, upon the improvement of not less than 15 per cent of the area of the land to be patented, to the satisfaction of the Commissioner, which improvements shall include the bona fide cultivation of coffee or fruit, field or garden crops, or all or any of such crops, and payment to the Commissioners of the unimproved value of the premises to be patented according to the appraisement stated in section 79, be entitled to receive from the Government a land patent for any portion of his leased premises in one parcel within 200 acres in extent and including such improved portion, if all the conditions of such lease to be performed by such lessee up to such time, shall have been substantially performed.

"Provided, however, that condition 5 of such lease for the purpose of making such lease good, shall be deemed to have been substantially performed when improvements or cultivation shall have been made on such premises to the aggregate value of $200. No land patent, however, shall be issued for any portion of said premises until improvements or cultivation to the extent of $200 in addition to the 15 per cent above named shall have been shown to have been made.

"Any such person as aforesaid whose lease covers less than 200 acres of land and who has improved not less than thirty acres thereof, shall upon fulfilling the above mentioned requirements, have the privilege of purchasing an additional area according to the appraisement stated in section 79, provided the aggregate acreage of his holding shall not exceed 200 acres. * *"

This section provides for two classes of cases: (1) A person holding an Olaa crown land lease of whatever area may obtain a patent for such portion of the same land, as shall have no more than an area of which the cultivated part is 15 per cent, but which shall not exceed 200 acres in all, and (2) any such person whose lease covers less than 200 acres may obtain a patent for the same and additional land, in all not to exceed 200 acres, provided he has improved not less than thirty acres thereof (15 per cent of 200 acres).

The plaintiff applied for and obtained his patent under the first part of the section. This is shown by the fact that he stated in his application that he had 15 per cent of his lot of 47.25 acres under cultivation and that the Sub-Agent of Public Lands found that he had about ten acres under cultivation. He could not have applied under the second part of the section unless he had thirty acres under cultivation. Having obtained a patent for all the land covered by his lease under the first part of the section he now seeks to obtain a patent of additional land under the second part of the section.

When he obtained his patent for the whole of the land covered by the lease, the lease terminated. In such case the lease would naturally merge in the patent, and that it would become merged seems to have been contemplated as shown by the clause in section 78 (Civ. L. Sec. 262), which provides: "The premises thus sought to be patented shall, from the date of such application accompanied by one-fourth of the purchase price, be free from the stipulations of such crown lease, which shall, however, remain in full force as to the remainder of the premises described therein." Since the application and patent covered the entire premises in this case, the entire premises became free from the stipulations of the lease and there was no remainder of the premises as to which the lease could remain in force.

The question, then, is whether a person who has once exercised his right and who has obtained a patent for the whole of the land covered by his lease under the first part of the section may exercise his right a second time and under the second part of the section. We need not decide whether a person may first exercise his right under one part of the section and then under the other part or whether he may exercise his right more than once under either part in case he should not obtain a patent for the whole 200 acres on his first application, for in our opinion he can exercise his right only so long as he holds a crown land lease, and it appears in this case that the applicant has no such lease, it having terminated upon his obtaining his patent for the whole land covered by the lease.

The statute does not, as contended on behalf of the plaintiff, confer an absolute right to obtain a patent upon a person holding a lease at the date of the Act irrespective of whether he holds the lease at the date of his application for the patent. If that were so the holder at the date of the Act could obtain a patent even though he might have assigned his lease prior to his application for the patent and his assignee, the holder of the lease, could not obtain a patent; or he could obtain a patent even though he had surrendered his lease before his application for the patent—which the applicant has practically done in this case by accepting a title in fee simple. The statute clearly confers the right upon only those who hold at the date of their application leases in existence at the date of the statute. It says in the first part of the section: "Any person holding land under a lease," not "any person who has held land under a lease"; and in the second part of the section: "Any such person as aforesaid whose lease covers" etc.; and the language of the section throughout bears out this construction. It does not say that a person having a lease of fifty acres may cultivate ten acres and then surrender his lease and obtain a fee simple title for the whole lot and then cultivate thirty acres of his own land thus obtained and held in fee simple and then obtain a patent for 150 acres more.

This construction is entirely consistent with the decisions in Webster vs. Luther, 163 U. S. 337, and other cases relied on for the plaintiff, which held that sections 2304 and 2306 of the United States Revised Statutes conferred upon certain soldiers and others an absolute assignable right to acquire additional lands. Similarly, it might be held under our statute that a person who came within the terms of the statute acquired an absolute right to obtain additional land, which right would pass with an assignment of the lease. But it could not be held that one who did not come within the terms of the statute had such right. The statute confers the right upon only those holding land under leases and who have improved the required area of the leased premises. In this case the applicant does not hold a crown land lease and he has not improved the required area of land held under such a lease. As a basis for his present application he has shown merely that he has a fee simple in his own right and that he has improved only the land so held in fee, although he once held the land under lease—before he made the improvements and before he made his present application.

Judgment is ordered for the defendants.

**Sensational and Untrue.**

The sensational article in an afternoon paper on glanders in the city is unwarranted. Enquiry from veterinary surgeons and livery stable proprietors shows that there is no increase in the number of cases of the dread disease; there has been for years past an occasional case and the animal has been promptly destroyed. All such matters must be reported at once to the Board of Health and no recent cases have been reported.

The present epidemic of influenza in stock need cause no anxiety. It is being successfully treated and the number of cases is decreasing. Undoubtedly the cause was the hot, dry weather.

MANY THANKS.

"I wish to express my thanks to the manufacturers of Chamberlain's Colic, Cholera and Diarrhœa Remedy, for having put on the market such a wonderful medicine," says W. W. Massingill, of Beaumont, Texas. There are many thousands of mothers whose children have been saved from attacks of dysentery and cholera infantum who must also feel thankful. It is for sale by all druggists. Benson, Smith & Co., Ltd., agents for H. I.